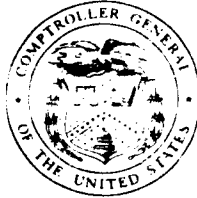


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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-203172

DATE: June 1, 1981

MATTER OF: Beelner & Thomas

DIGEST:

[Protest of solicitation deficiency] is dismissed as untimely since it was filed after closing date for receipt of initial proposals and protester's previous letter to agency for information cannot reasonably be construed as protest.

Beelner & Thomas (B&T) protests any award of a contract under request for proposals No. FLRA-81-R-0002 issued by the Federal Labor Relations Authority. B&T contends the solicitation did not contain sufficient descriptions of the 33 furniture items being purchased, thereby denying it an opportunity to complete. We dismiss the protest as untimely.

The date for receipt of proposals was May 1, 1981; B&T's protest was received by our Office on May 5. Our Bid Protest Procedures, 4 C.F.R. § 20.2 (1980), require that a protest alleging solicitation improprieties which are apparent prior to the date for receipt of initial proposals be filed prior to such date. B&T argues that the protest is not untimely, however, because on April 17 it requested the agency to provide the descriptions; it contends that the agency's receipt of proposals was initial adverse agency action and that it had ten working days thereafter to submit its protest to our Office.

Adverse agency action, however, refers to action following the filing of a protest with the agency. See 4 C.F.R. § 20.2(a). B&T's letter of April 17 to the agency cannot be construed as a protest, but merely as a request for information. While a letter to an agency need not use the word "protest" to be characterized as a protest, it must reasonably convey to the agency an intent to protest.

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See Pitney Bowes, Inc., B-200006, December 30, 1980, 80-2 CPD 448. We do not believe the April 17 letter did that here, as it merely requested the agency to [k]indly furnish * * * catalog sheets or a more detailed description * * *." Thus, when it became apparent that the requested information would not be forthcoming in time for B&T to submit a proposal, it was incumbent upon B&T to protest to the agency or to this Office prior to the date for receipt of initial proposals. Since it did not, the protest is untimely.

In view of the above, no useful purpose would be serviced by holding the conference on the merit which B&T has requested.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel